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REVISED VERSION

A SUBMISSION

to the

ONTARIO COMMITTEE ON TAXATION

by the

ONTARIO HOTEL AND MOTEL ASSOCIATION

OCTOBER, 1963.

The Ontario Hotel and Motel Association (until recently known as the Ontario Hotel Association) whose offices are located in the King Edward Hotel, 37 King Street East, Toronto, respectfully submits this brief to the Ontario Commission on Taxation.

The Ontario Hotel & Motel Association represents over 700 hotels, motor hotels, taverns and public houses in the province. Membership is purely voluntary -- and this organization has served the industry as a trade association for the past thirty-nine years.

The major objective of this association is to promote the welfare of this industry through improvement in the various forms of hospitality and accommodation traditional with this industry. The Association is concerned with advancing the standards of operation, the services rendered, and the professional recognition of those engaged in the hotel and catering industry.

The complexities of government regulations and of the taxation affecting our type of business are, therefore of major significance in achieving these objectives.

Our brief on this occasion, however, will concern itself with two specific aspects of taxation which we believe fall within the terms of reference for this Committee.

These are, namely:

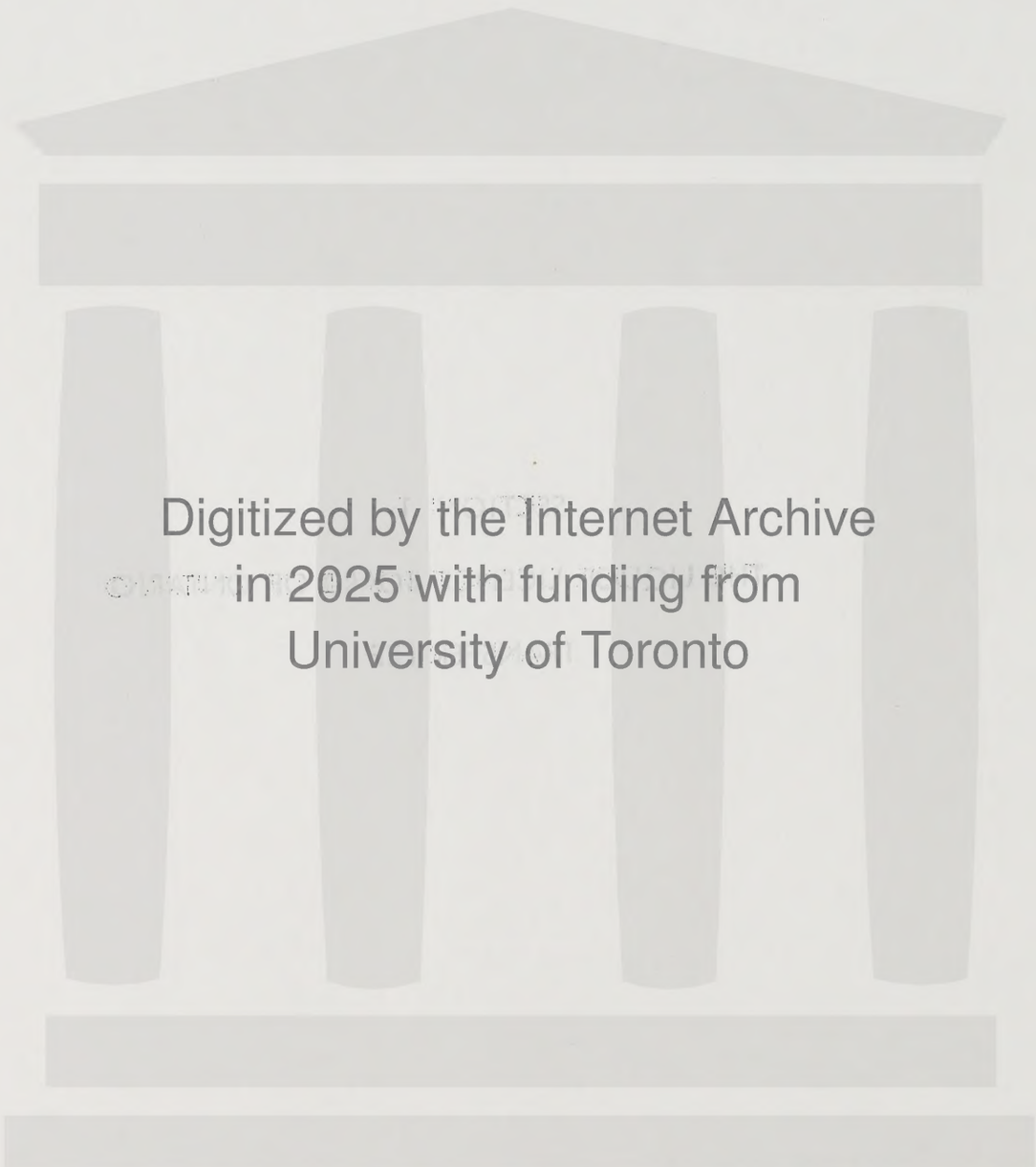
1. The provincial transfer fee which is applicable to the sale of licensed establishments, and

2. The present income tax exemptions currently granted to non-profit, provincially-incorporated clubs, veterans organizations, and social and fraternal bodies.

SECTION 1

THE LIQUOR LICENCE BOARD OF ONTARIO

TRANSFER FEE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The Ontario Hotel & Motel Association contends that the transfer fee or tax provided for in The Liquor Licence Act, Revised Statutes of Ontario, 1960 (Section 45) is contradictory, unfair and of a discriminatory nature.

We further contend that the present regulations -- and the terms laid down which require the payment of a transfer tax of unwarranted proportions -- are contrary to the principles of free enterprise which motivate the business climate in this province.

1. The transfer tax is contradictory because Section 31 of the Act states: "No person shall enjoy a vested right in the continuance of a licence, and upon the issue, renewal, transfer, cancellation, or suspension thereof the value of a licence shall not be capitalized but becomes the property of the Crown in right of Ontario." (RSO 1950 C211 531).

Under Section 31 of the Act it is evident that the vendor of any premises licensed to sell alcoholic beverages by the glass does not have the right to sell or transfer the licence under which his business is conducted. The rights to this licence are the sole prerogative of the Crown in the right of Ontario.

Section 45, which defines the procedure which must be followed in effecting a transfer of a licence involved in a sale of any licensed premises and/or business, however, clearly asserts that the amount of the prescribed transfer fee payable is a debt due to The Liquor Control Board of Ontario.

This Section reads as follows:

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This section makes it mandatory for the vendor to pay a fee for the transfer of a licence although Section 31 of the Act clearly notes the holder does not have the right to transfer.

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The Act requires the vendor to recognize a debt is due for a privilege which the Act declares is not vested in him -- and therefore cannot be capitalized. In actual practice, however, the buyer ultimately pays for the transfer fee, and in one way or another, because this fee increases the purchase price, the fee does become a capital cost to the purchaser, and to any successive purchaser.

2. We contend that the imposition of a transfer tax on the vendor of a licensed establishment is unfair because throughout the period that a licence is granted and exercised, the holder pays a substantial tax on the beer gallonage and on the wine and liquor purchased from the Liquor Control Board of Ontario, or its agents, in accordance with the fee schedule set forth under Section 61 of the Liquor Licence Board regulations.

This schedule is graded -- and graduated -- according to the licence classification of the licensee, and the volume of purchasing made from the Board. (Regulation 407, Section 61, 1-6.)

To illustrate, an average licensed establishment in a hotel classification re-selling 35,000 gallons of beer, and $25,000. worth of wine and liquor in one year's operation, would pay a total annual fee of approximately $6,600.

The accumulation of the annual gallonage fees paid by a licensed establishment therefore adds up to a substantial sum over a period of years. But despite this burden of taxation, the licensee is still required to reimburse the Liquor Licence Board with a substantial transfer fee if he chooses to sell his business to a new owner.

In comparison with other provincially licensed businesses and provincially supervised industries, where nominal licence fees only are charged, the heavy transfer fee imposed on this industry is unjustified and grossly unfair.

Nominal transfer fees are levied on the transfer of shares of Ontario corporations, which fees amount to only a few cents per share, and are levied mainly for the purpose of recovering recording costs.

It should also be noted that hotels, taverns, and public houses in Ontario are liable for all of the normal business taxes, municipal realty taxes, federal and provincial sales taxes, and other tax levies applicable to all business establishments.

3. The transfer fee is discriminatory because the hotel, tavern and public house industry has been singled out exclusively for a special tax in the form of a transfer fee which by its intent and in its present form is unique, and is without precedent in the taxation history of this province.

Our concern is with the potential economic hardship which the present transfer fee has, and continues to impose, on reputable professional people when they desire to sell their business, retire, or may be forced to liquidate an estate.

To further illustrate, let us re-examine the average hotel establishment referred to in Section 2. Such an establishment if operated under one ownership for approximately fifteen years with an average annual consumption of 35,000 gallons of beer and $25,000. of wine and liquor has already paid gallonage fees of almost $100,000. The present transfer fee on this hotel would amount to an additional $~~24,000~~ 14,000. if the business is sold. The accumulated tax, and potential transfer fee (under Regulations 61 and 63) therefore amount to:

35,000 gallons of beer x 15 years	$ 61,500.00
$25,000. in wine and liquor purchases	37,500.00
Transfer fee (on above 12 months)	14,040.00
Tax return for 15 years	$ 113,040.00

The discriminatory aspect of the transfer fee is further enhanced by the fact that the full cash payment of this transfer fee is not a deductible expense, and the vendor cannot derive any tax benefit for this substantial outlay.

The effect of this discriminatory tax on this industry has been far-reaching. If a particular licensed establishment has undergone more than one sale over a period of years, the price is inevitably inflated due to the compounding of the transfer fees involved. As aresult, fictitious values have been created.

The existence of the transfer fee has also been a deterrent in securing loans and mortgage funds to this industry at equitable commercial rates. This has become a particular hardship for many licensed establishments now seeking funds to improve and modernize their premises.

This levy has also helped to create a layer of false value and financial inequity with the rest of the business community. It has discouraged, to a degree, a development rate comparable to the general level of business in Ontario. Yet this industry, as a whole, is called upon to provide employment and attract an adequate supply of trained personnel to satisfy an increasing demand for the accommodation of the province's visitor and tourist trade -- one of our largest sources of foreign dollars.

The transfer fee, which was originally enacted on the premise that it would discourage "trafficking in licences", is now no longer necessary. The legislation which empowered the levy, however, did not spell out its purpose, and the present assumption is that the levying of transfer fees is to all intents and purposes now a tax expedient.

From 1948 to 1961 the transfer fees paid (as reported annually in the reports of the Liquor Licence Board) totals $10,910,684. The total number of all such transfers reported in this period was 3,662. A large percentage of these transfers, however, involved minor share transfers or transfers to next of kin.

The actual number of outright sales involving a complete change of ownership in recent years has not been sufficient to justify the original intent for the levy.

From 1948, when lounges and dining lounges were permitted, the number of commercial licences has increased from 1,265 to 1,587 in 1961. The number of transfers in proportion to the total number of establishments has been declining in recent years for a variety of economic reasons.

The Ontario Hotel & Motel Association therefore contends that the foregoing facts warrant the following conclusions:

A. The licensed establishments pay adequate taxes and fees.

B. That any further levy in the form of a transfer fee (or any such deferred obligation) on the change of ownership through the sale of a licensed establishment, is unfair and discriminatory, except for a nominal transfer fee to cover the cost of recording and supervising the transfer of ownership.

C. That such excessive transfer fees cannot be justified on economic grounds as having any essential purpose other than to increase the already heavy tax burden on this industry.

The Ontario Hotel & Motel Association, therefore, requests the Ontario Commission on Taxation to recommend to the Government of the Province of Ontario that the Transfer Fee which is currently required, under Section 45 - 2 of The Liquor Licence Act of Ontario, be withdrawn, or the inequities corrected and the tax reduced to nil over a given period of years.

SECTION 2

TAX EXEMPTIONS

In recent years, the hotels, dining lounges and public houses of this province have become seriously concerned with the tremendous increase and growth in what may be termed unfair competition from organizations which have tax exemption privileges or tax concessions. These exemptions fall within the dominion, provincial, and/or the municipal tax field.

This Association suggests that the major source of unfair competition comes from such tax-exempt operations as:

1. Certain Private, Fraternal, Social and Sporting Clubs
2. Public hall rentals and casual catering.

Unfair competition does exist because many of the groups referred to are serving the public in the fields of hall or room rentals, food catering, and licensed or banquet beer and liquor sales, in direct competition with the hotels which pay commercial business, property and income taxes, as well as Liquor Licence Board fees in the form of premium gallonage fees, et cetera.

The catering trade of our industry for special events such as banquets, dances, meetings and conventions, is also jeopardized because tax-exempt premises are in a position to offer lower rates and special privileges by virtue of their tax-exempt status.

Many of these organizations are in fact carrying on a commercial-type business, the profits of which are used to expand their facilities, resulting in ever-increasing unfair competition to the members of this Association which do not enjoy any tax-exemption privileges for the public services they provide.

As a consequence, the taxing authorities are losing an ever-increasing amount of revenue by not taxing these organizations on the portion of their incomes derived from a purely business operation. It also follows that if these expenditures or revenue were accruing to the hotels it would be subject to income tax in their hands.

It is submitted that the loss of a large volume of business by the hotel industry also has a significant bearing on the employment situation. Many tax-exempt organizations use voluntary workers, auxiliary or part-time employees. It is felt that if the tax-exempt business now being done by these organizations were catered to by the tax paying establishments, which are subject to all labour and wage regulations, it would increase the number of full-time gainfully employed persons. This would also increase personal income tax revenues and the numbers contributing to the Unemployment Insurance Fund, and other compulsory welfare programs.

Non-profit organizations secure direct subsidies by way of tax exemptions despite the assumption that they are organized for a bona fide non-profit purpose, and do not engage in commercial activities. It is now apparent that since their initial inception conditions have changed, and many of these organizations should no longer be tax-exempt by virtue of either a dominion or provincial statute, or by municipal by-law.

The equitable way to judge whether or not they are entitled to tax exemption would be to have each taxing body require these organizations to submit annual audited financial statements showing full details of sources of revenue, disposition of revenue, assets held and surplus accumulated. It is our contention that these statements should be reviewed yearly, and tax exemptions be granted on a yearly basis where warranted.

While these tax-exempt organizations are assumed to be non-profit making, and continue to enjoy this status, the members are, in reality, receiving dividends by way of improved and enlarged facilities or the monetary advantage of what amounts to reduced fees. If these improvements were being made solely out of monies received from membership fees, special assessments, or investment income, the question of removing their tax exemption would not arise, but once they become engaged in business activities in direct competition with tax-paying businesses, their exemption should cease, or be modified.

The Ontario Hotel & Motel Association desires this Committee to know that our members are quite prepared to meet competition. We anticipate, however, that our competition should come primarily from commercial enterprises subject to the same taxes and regulations which regulate our industry.

Likewise, we do not wish to suggest that any bona fide club or non-profit organization should be deprived of the privilege of serving and catering exclusively to a legitimate roster of its members.

We recommend, for your consideration, the recognition given this problem of unfair competition in the United States.

The Internal Revenue Service of the United States Government (under Section 501 (c) (7) of the Internal Revenue Code and by I.R.S. Revenue Ruling 60 - 324, 1963) cites specifically the responsibility of a tax free club. These provisions state in part, "where an organization makes its facilities available to the general public or to outside groups on a regular recurring basis for the purpose of obtaining funds to benefit its members by minimizing dues and fees, enlarging its facilities or otherwise, its exempt status will be jeopardized". Further to this, all tax exempt social clubs, veterans organizations, et cetera, are required to file an annual information return to the Internal Revenue Service.

The U. S. tax authorities have recently gone one step further and have provided public access to tax exempt organizations declaratory forms. All charitable, educational, scientific, religious and similar groups in the U.S.A., including charitable foundations, are required under a new form No. 990-A, which will require for the first time such data as officers, salaries, and investments, political or lobbying activities, accumulations of capital gains and other income, dealings and relations with contributors, costs of raising funds, et cetera. After allowing for processing in district offices, copies of the executed forms will be open to the public in Washington.

Under Section 501 the U. S. code also states:

"Solicitation by advertising or otherwise for public patronage of its facilities is prima facie evidence that the club is engaged in business, and is not operated for pleasure, recreation or social purposes."

Further tax exemptions pertaining to the sale or capitalizing of new construction of club facilities, is also discriminatory. Older club buildings and equipment can and are sold at an enhanced value above their original cost. Because the non-profit organization operates outside the Income Tax Act, no tax is collected on this appreciation of assets. Hotel, taverns and public house operations, however, fall within the Income Tax Act and tax is calculated and collected on recaptured depreciation. And as cited earlier, the beverage licensed industry is subject to high transfer fees if and when the business is sold.

A partial indication of the influence of competition from non-profit organizations may be discerned from an examination of Appendix 2 which is attached to this brief.

This summary of data relating to the sale of beer in relation to the commercially-licensed establishments from 1948 to 1962 demonstrates that the ratio of non-profit licences to commercial licences has increased from less than 1/3 to almost 1/2. Other factors such as increased home consumption have actually reduced the per capita beer consumption in licensed establishments during this period (1948 - 1962) whereas population and other marketing indices have increased substantially. Total beer sales in Ontario increased approximately 50% over this 13-year period while beer sales (in gallons) through commercially-licensed establishments actually declined by about 9%.

A further study compiled for this Association by Winspear, Higgins, Stevenson and Doane, a Toronto accounting firm, based upon the annual operating figures for 20 typical establishments during the 1948 - 1961 period, shows that from 1949 to 1961 the average operating profit for licensed establishments has declined from a 1949 base of 100 to 68.12 in 1961. During the same period average dollar operating costs increased from 100 (1948 base) to 163.83. (See Appendix 1 and Chart 1).

These supplementary observations are made here to further illustrate our contention that unfair competition is a real and menacing factor in maintaining all our services to the public.

It is our conclusion, therefore, that certain non-profit clubs and organizations, to varying degrees, provide tax-exempt services and accommodation which are, in all respects, competitively unfair.

We recommend, therefore, that certain non-profit organizations which engage in providing social and meeting room facilities, food and beverage service, guest rooms and such ancillary services, be no longer granted total provincial tax exemptions as non-profit organizations. This recommendation should apply to all non-profit organizations which obtain a profit (or an excess of earnings) from any or all operations which are in excess of its needs for the designated purpose of the organization, and the essential services provided for in its membership assessment or dues structure.

It is further recommended that the Province of Ontario re-examine the present qualifications and charter requirements for incorporation as a non-profit organization, and re-define these qualifications so that more control of the commercial operations of private club charters may be exercised.

It is further recommended that the Province of Ontario give consideration to requiring all non-profit clubs to be incorporated under the Companies Act to permit these organizations to be taxed in accordance with the volume of business and revenues which may be deemed taxable.

All of which is respectfully submitted

on behalf of

THE ONTARIO HOTEL & MOTEL ASSOCIATION

Clifford W. Hale,
Managing Director.

APPENDIX 2.

PROVINCE OF ONTARIO
Population, Beer Sale, and Licence Statistics
1948 to 1962

Year Ending 31st. March (Except Population)	Population at 1st. June	BEER SALES IN GALLONS			BEER SALES PER CAPITA IN GALLONS			LICENCES			Average Beer Sales In Gallons Each Establishment Licensed for Profit
		Total	Licensed For Profit	Home Consumer and Licensed Non Profit	Total	Licensed For Profit	Home Consumer and Licensed Non Profit	Total	For Profit	Non Profit	
1948	4,176,000	67,882,618	35,156,577	32,726,041	16.25	8.42	7.83	1,733	1,310	423	26,837
1949	4,275,000	69,198,073	33,859,004	35,339,069	16.19	7.92	8.27	1,827	1,368	459	24,751
1950	4,378,000	69,888,653	31,953,855	37,934,798	15.96	7.30	8.66	1,888	1,387	501	23,038
1951	4,471,000	69,656,366	31,492,533	38,163,833	15.58	7.04	8.54	1,959	1,418	541	22,210
1952	4,598,000	74,450,207	33,599,339	40,850,868	16.19	7.31	8.88	1,985	1,433	552	23,447
1953	4,766,000	80,153,312	34,969,493	45,183,819	16.82	7.33	9.49	2,024	1,442	582	24,251
1954	4,897,000	83,397,464	34,859,872	48,537,592	17.03	7.12	9.91	2,043	1,443	600	24,158
1955	5,046,000	81,804,300	33,749,168	48,055,132	16.21	6.69	9.52	2,077	1,452	625	23,243
1956	5,183,000	87,290,800	34,478,706	52,812,094	16.84	6.65	10.19	2,103	1,469	634	23,471
1957	5,404,933	87,737,500	33,944,675	53,792,825	16.23	6.28	9.95	2,124	1,481	643	22,920
1958	5,636,000	90,637,216	34,792,444	55,844,772	16.08	6.17	9.91	2,142	1,491	651	23,335
1959	5,821,000	81,721,366	31,495,037	50,226,329	14.04	5.41	8.63	2,162	1,498	664	21,024
1960	5,969,000	93,981,613	34,416,827	59,564,786	15.74	5.77	9.97	2,191	1,516	675	22,702
1961	6,111,000	92,778,100	33,160,055	59,618,045	15.18	5.43	9.75	2,282	1,564	718	21,202
1962	6,236,092	94,465,700	33,332,732	61,132,968	15.15	5.35	9.80	2,335	1,584	751	21,043

APPENDIX 1.

ONTARIO HOTEL ASSOCIATION

MEMORANDUM IN RESPECT TO OPERATIONS OF CERTAIN LIQUOR LICENCE HOLDERS

1949 to 1961

Indices of sales, gross profit, expenses and operating profit for years 1949 to 1960-61 based on 1949=100.

Table 1

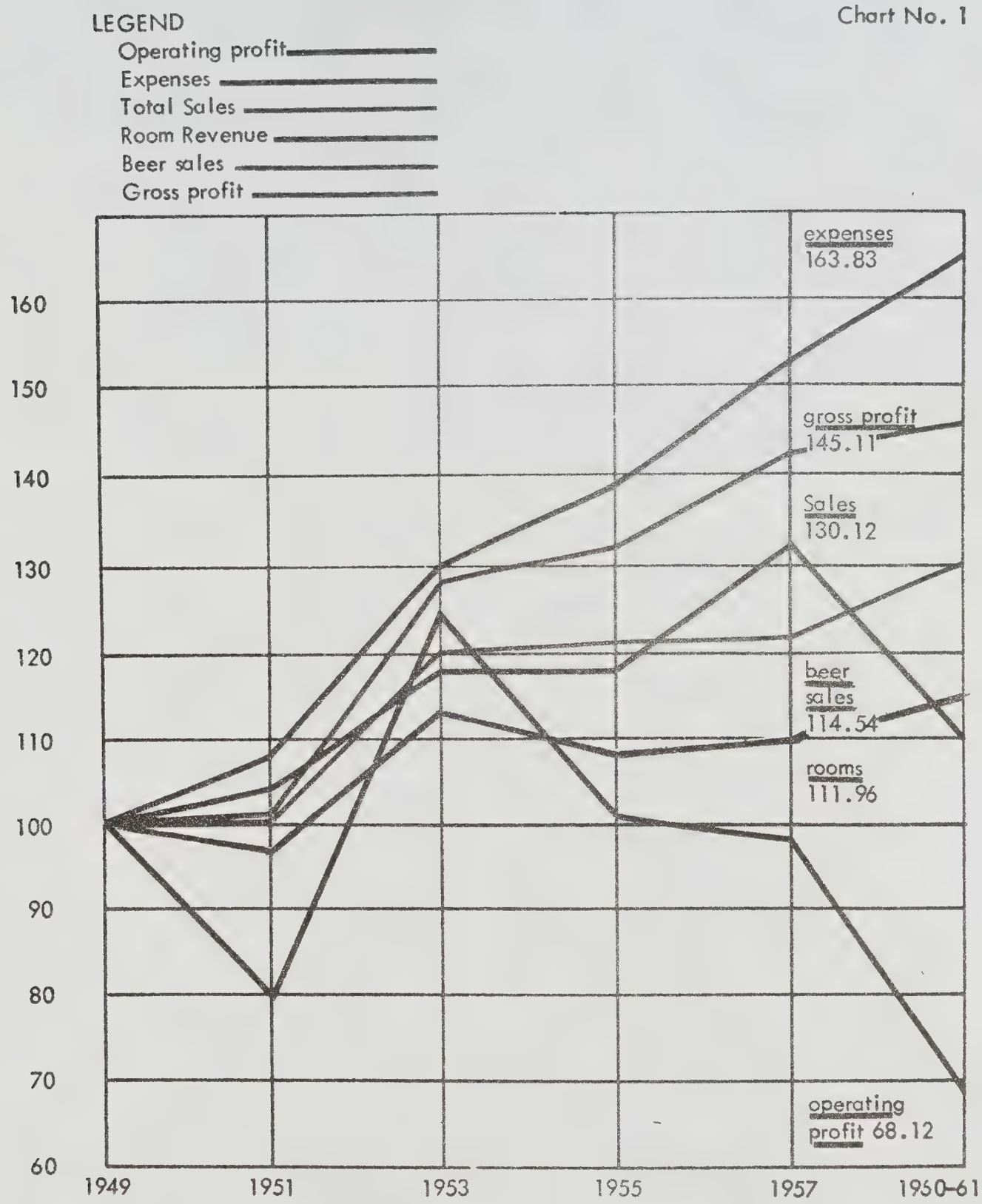
	1949	1951	1953	1955	1957	1960-61
Sales						
Beer						
-Draught	100.00	95.48	102.77	102.85	99.78	121.50
-Bottled	100.00	98.84	125.63	114.10	119.90	106.68
-Total	100.00	97.04	113.45	108.11	109.18	114.54
Liquor and wine	100.00	153.80	257.53	283.45	355.71	413.92
Dining rooms, etc.	100.00	97.45	127.20	137.94	147.05	171.62
Rooms	100.00	102.87	117.41	118.51	132.36	111.96
Total sales	100.00	100.20	120.16	119.09	125.87	130.12
Gross profit	100.00	101.60	128.48	130.88	141.08	145.11
Expenses						
Wages	100.00	100.94	127.17	135.79	152.50	160.92
Total	100.00	106.95	129.32	138.83	151.08	163.83
Operating profit	100.00	79.63	125.04	100.32	99.94	68.12

Compiled by:
Winspear, Higgins, Stevenson and Doane,
Chartered Accountants.

ONTARIO HOTEL ASSOCIATION

Indices of operating profit, expenses, sales, beer sales, and room revenue, for years 1949 to 1960-61 based on 1949=100

Chart No. 1



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Tax return for 15 years	$ 123,040.00

The discriminatory aspect of the transfer fee is further enhanced by the fact that the full cash payment of this transfer fee is not a deductible expense, and the vendor cannot derive any tax benefit for this substantial outlay.

The effect of this discriminatory tax on this industry has been far-reaching. If a particular licensed establishment has undergone more than one sale over a period of years, the price is inevitably inflated due to the compounding of the transfer fees involved. As aresult, fictitious values have been created.

The existence of the transfer fee has also been a deterrent in securing loans and mortgage funds to this industry at equitable commercial rates. This has become a particular hardship for many licensed establishments now seeking funds to improve and modernize their premises.

This levy has also helped to create a layer of false value and financial inequity with the rest of the business community. It has discouraged, to a degree, a development rate comparable to the general level of business in Ontario. Yet this industry, as a whole, is called upon to provide employment and attract an adequate supply of trained personnel to satisfy an increasing demand for the accommodation of the province's visitor and tourist trade -- one of our largest sources of foreign dollars.

The transfer fee, which was originally enacted on the premise that it would discourage "trafficking in licences", is now no longer necessary. The legislation which empowered the levy, however, did not spell out its purpose, and the present assumption is that the levying of transfer fees is to all intents and purposes now a tax expedient.

From 1948 to 1961 the transfer fees paid (as reported annually in the reports of the Liquor Licence Board) totals $10,910,684. The total number of all such transfers reported in this period was 3,662. A large percentage of these transfers, however, involved minor share transfers or transfers to next of kin.

The actual number of outright sales involving a complete change of ownership in recent years has not been sufficient to justify the original intent for the levy.

From 1948, when lounges and dining lounges were permitted, the number of commercial licences has increased from 1,265 to 1,587 in 1961. The number of transfers in proportion to the total number of establishments has been declining in recent years for a variety of economic reasons.

The Ontario Hotel & Motel Association therefore contends that the foregoing facts warrant the following conclusions:

A. The licensed establishments pay adequate taxes and fees.

B. That any further levy in the form of a transfer fee (or any such deferred obligation) on the change of ownership through the sale of a licensed establishment, is unfair and discriminatory, except for a nominal transfer fee to cover the cost of recording and supervising the transfer of ownership.

C. That such excessive transfer fees cannot be justified on economic grounds as having any essential purpose other than to increase the already heavy tax burden on this industry.

The Ontario Hotel & Motel Association, therefore, requests the Ontario Commission on Taxation to recommend to the Government of the Province of Ontario that the Transfer Fee which is currently required, under Section 45 - 2 of The Liquor Licence Act of Ontario, be withdrawn.

SECTION 2

TAX EXEMPTIONS

In recent years, the hotels, dining lounges and public houses of this province have become seriously concerned with the tremendous increase and growth in what may be termed unfair competition from organizations which have tax exemption privileges or tax concessions. These exemptions fall within the dominion, provincial, and/or the municipal tax field.

This Association suggests that the major source of unfair competition comes from such tax-exempt operations as:

1. Certain Private, Fraternal, Social and Sporting Clubs
2. Public hall rentals and casual catering.

Unfair competition does exist because many of the groups referred to are serving the public in the fields of hall or room rentals, food catering, and licensed or banquet beer and liquor sales, in direct competition with the hotels which pay commercial business, property and income taxes, as well as Liquor Licence Board fees in the form of premium gallonage fees, et cetera.

The catering trade of our industry for special events such as banquets, dances, meetings and conventions, is also jeopardized because tax-exempt premises are in a position to offer lower rates and special privileges by virtue of their tax-exempt status.

Many of these organizations are in fact carrying on a commercial-type business, the profits of which are used to expand their facilities, resulting in ever-increasing unfair competition to the members of this Association which do not enjoy any tax-exemption privileges for the public services they provide.

As a consequence, the taxing authorities are losing an ever-increasing amount of revenue by not taxing these organizations on the portion of their incomes derived from a purely business operation. It also follows that if these expenditures or revenue were accruing to the hotels it would be subject to income tax in their hands.

It is submitted that the loss of a large volume of business by the hotel industry also has a significant bearing on the employment situation. Many tax-exempt organizations use voluntary workers, auxiliary or part-time employees. It is felt that if the tax-exempt business now being done by these organizations were catered to by the tax paying establishments, which are subject to all labour and wage regulations, it would increase the number of full-time gainfully employed persons. This would also increase personal income tax revenues and the numbers contributing to the Unemployment Insurance Fund, and other compulsory welfare programs.

Non-profit organizations secure direct subsidies by way of tax exemptions despite the assumption that they are organized for a bona fide non-profit purpose, and do not engage in commercial activities. It is now apparent that since their initial inception conditions have changed, and many of these organizations should no longer be tax-exempt by virtue of either a dominion or provincial statute, or by municipal by-law.

The equitable way to judge whether or not they are entitled to tax exemption would be to have each taxing body require these organizations to submit annual audited financial statements showing full details of sources of revenue, disposition of revenue, assets held and surplus accumulated. It is our contention that these statements should be reviewed yearly, and tax exemptions be granted on a yearly basis where warranted.

While these tax-exempt organizations are assumed to be non-profit making, and continue to enjoy this status, the members are, in reality, receiving dividends by way of improved and enlarged facilities or the monetary advantage of what amounts to reduced fees. If these improvements were being made solely out of monies received from membership fees, special assessments, or investment income, the question of removing their tax exemption would not arise, but once they become engaged in business activities in direct competition with tax-paying businesses, their exemption should cease, or be modified.

The Ontario Hotel & Motel Association desires this Committee to know that our members are quite prepared to meet competition. We anticipate, however, that our competition should come primarily from commercial enterprises subject to the same taxes and regulations which regulate our industry.

Likewise, we do not wish to suggest that any bona fide club or non-profit organization should be deprived of the privilege of serving and catering exclusively to a legitimate roster of its members.

We recommend, for your consideration, the recognition given this problem of unfair competition in the United States.

The Internal Revenue Service of the United States Government (under Section 501 (c) (7) of the Internal Revenue Code and by I.R.S. Revenue Ruling 60 - 324, 1963) cites specifically the responsibility of a tax free club. These provisions state in part, "where an organization makes its facilities available to the general public or to outside groups on a regular recurring basis for the purpose of obtaining funds to benefit its members by minimizing dues and fees, enlarging its facilities or otherwise, its exempt status will be jeopardized". Further to this, all tax exempt social clubs, veterans organizations, et cetera, are required to file an annual information return to the Internal Revenue Service.

The U. S. tax authorities have recently gone one step further and have provided public access to tax exempt organizations declaratory forms. All charitable, educational, scientific, religious and similar groups in the U.S.A., including charitable foundations, are required under a new form No. 990-A, which will require for the first time such data as officers, salaries, and investments, political or lobbying activities, accumulations of capital gains and other income, dealings and relations with contributors, costs of raising funds, et cetera. After allowing for processing in district offices, copies of the executed forms will be open to the public in Washington.

Under Section 501 the U. S. code also states:

"Solicitation by advertising or otherwise for public patronage of its facilities is prima facie evidence that the club is engaged in business, and is not operated for pleasure, recreation or social purposes."

Further tax exemptions pertaining to the sale or capitalizing of new construction of club facilities, is also discriminatory. Older club buildings and equipment can and are sold at an enhanced value above their original cost. Because the non-profit organization operates outside the Income Tax Act, no tax is collected on this appreciation of assets. Hotel, taverns and public house operations, however, fall within the Income Tax Act and tax is calculated and collected on recaptured depreciation. And as cited earlier, the beverage licensed industry is subject to high transfer fees if and when the business is sold.

A partial indication of the influence of competition from non-profit organizations may be discerned from an examination of Appendix 2 which is attached to this brief.

This summary of data relating to the sale of beer in relation to the commercially-licensed establishments from 1948 to 1962 demonstrates that the ratio of non-profit licences to commercial licences has increased from less than 1/3 to almost 1/2. Other factors such as increased home consumption have actually reduced the per capita beer consumption in licensed establishments during this period (1948 - 1962) whereas population and other marketing indices have increased substantially. Total beer sales in Ontario increased approximately 50% over this 13-year period while beer sales (in gallons) through commercially-licensed establishments actually declined by about 9%.

A further study compiled for this Association by Winspear, Higgins, Stevenson and Doane, a Toronto accounting firm, based upon the annual operating figures for 20 typical establishments during the 1948 - 1961 period, shows that from 1949 to 1961 the average operating profit for licensed establishments has declined from a 1949 base of 100 to 68.12 in 1961. During the same period average dollar operating costs increased from 100 (1948 base) to 163.83. (See Appendix 1 and Chart 1).

These supplementary observations are made here to further illustrate our contention that unfair competition is a real and menacing factor in maintaining all our services to the public.

It is our conclusion, therefore, that all non-profit clubs and organizations, to varying degrees, provide tax-exempt services and accommodation which are, in all respects, competitively unfair.

We recommend, therefore, that all non-profit organizations which engage in providing social and meeting room facilities, food and beverage service, guest rooms and such ancillary services, be no longer granted total provincial tax exemptions as non-profit organizations. This recommendation should apply to all non-profit organizations which obtain a profit (or an excess of earnings) from any or all operations which are in excess of its needs for the designated purpose of the organization, and the essential services provided for in its membership assessment or dues structure.

It is further recommended that the Province of Ontario re-examine the present qualifications and charter requirements for incorporation as a non-profit organization, and re-define these qualifications so that more control of the commercial operations of private club charters may be exercised.

It is further recommended that the Province of Ontario give consideration to requiring all non-profit clubs to be incorporated under the Companies Act to permit these organizations to be taxed in accordance with the volume of business and revenues which may be deemed taxable.

All of which is respectfully submitted,
On behalf of
THE ONTARIO HOTEL & MOTEL ASSOCIATION

Clifford W. Hale,
Managing Director.

APPENDIX 2.

PROVINCE OF ONTARIO

Population, Beer Sale, and Licence Statistics 1948 to 1962

Year Ending 31st. March (Except Population)	Population at 1st. June	BEER SALES IN GALLONS			BEER SALES PER CAPITA IN GALLONS			LICENCES			Average Beer Sales In Gallons Each Establishment Licensed for Profit
		Total	Licensed For Profit	Home Consumer and Licensed Non Profit	Total	Licensed For Profit	Home Consumer and Licensed Non Profit	Total	For Profit	Non Profit	
1948	4,176,000	67,882,618	35,156,577	32,726,041	16.25	8.42	7.83	1,733	1,310	423	26,837
1949	4,275,000	69,198,073	33,859,004	35,339,069	16.19	7.92	8.27	1,827	1,368	459	24,751
1950	4,378,000	69,888,653	31,953,855	37,934,798	15.96	7.30	8.66	1,888	1,387	501	23,038
1951	4,471,000	69,656,366	31,492,533	38,163,833	15.58	7.04	8.54	1,959	1,418	541	22,210
1952	4,598,000	74,450,207	33,599,339	40,850,868	16.19	7.31	8.88	1,985	1,433	552	23,447
1953	4,766,000	80,153,312	34,969,493	45,183,819	16.82	7.33	9.49	2,024	1,442	582	24,251
1954	4,897,000	83,397,464	34,859,872	48,537,592	17.03	7.12	9.91	2,043	1,443	600	24,158
1955	5,046,000	81,804,300	33,749,168	48,055,132	16.21	6.69	9.52	2,077	1,452	625	23,243
1956	5,183,000	87,290,800	34,478,706	52,812,094	16.84	6.65	10.19	2,103	1,469	634	23,471
1957	5,404,933	87,737,500	33,944,675	53,792,825	16.23	6.28	9.95	2,124	1,481	643	22,920
1958	5,636,000	90,637,216	34,792,444	55,844,772	16.08	6.17	9.91	2,142	1,491	651	23,335
1959	5,821,000	81,721,366	31,495,037	50,226,329	14.04	5.41	8.63	2,162	1,498	664	21,024
1960	5,969,000	93,981,613	34,416,827	59,564,786	15.74	5.77	9.97	2,191	1,516	675	22,702
1961	6,111,000	92,778,100	33,160,055	59,618,045	15.18	5.43	9.75	2,282	1,564	718	21,202
1962	6,236,092	94,465,700	33,332,732	61,132,968	15.15	5.35	9.80	2,335	1,584	751	21,043

APPENDIX 1.

ONTARIO HOTEL ASSOCIATION

MEMORANDUM IN RESPECT TO OPERATIONS OF CERTAIN LIQUOR LICENCE HOLDERS

1949 to 1961

Indices of sales, gross profit, expenses and operating profit for years 1949 to 1960-61 based on 1949=100.

Table 1

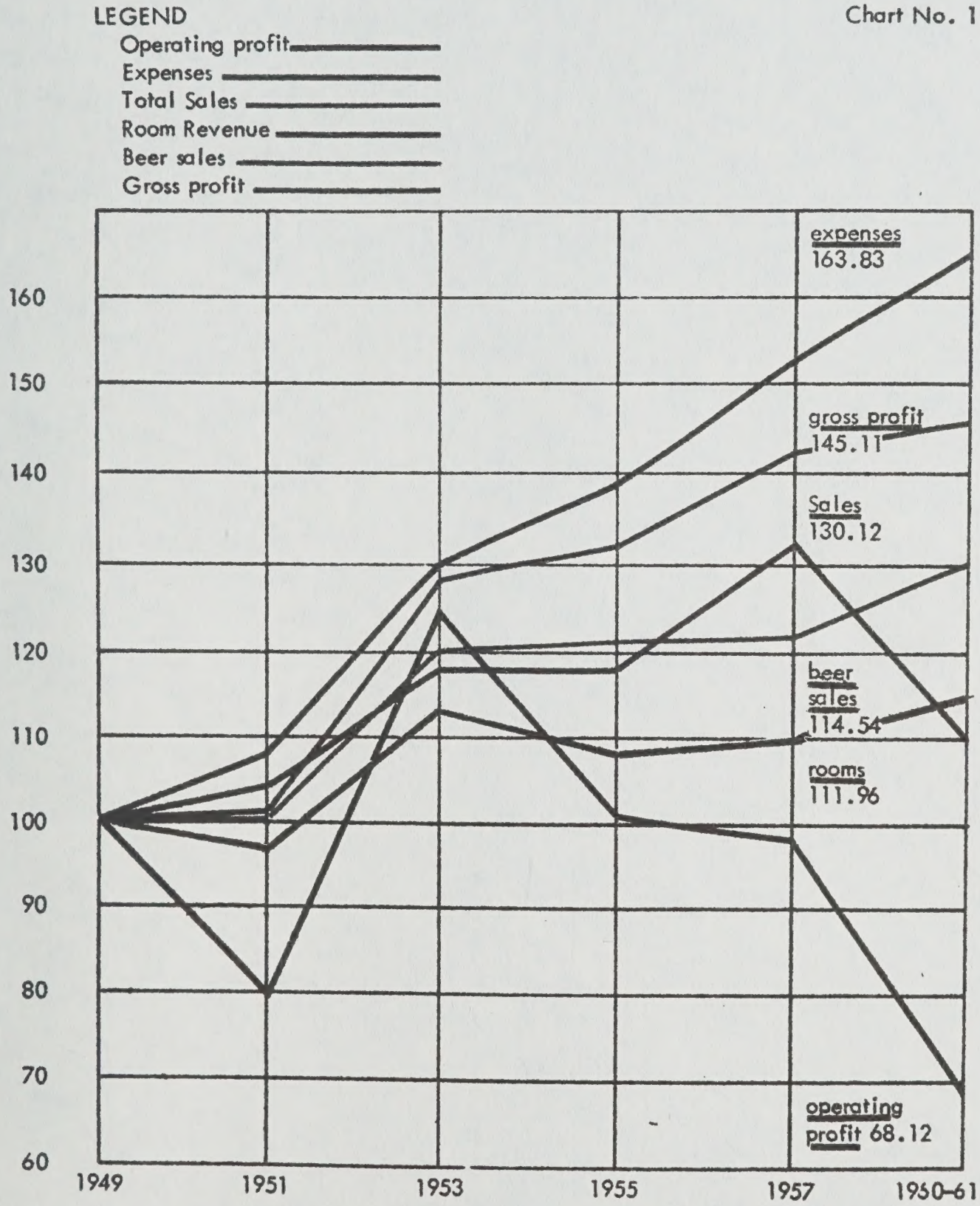
	1949	1951	1953	1955	1957	1960-61
Sales						
Beer						
-Draught	100.00	95.48	102.77	102.85	99.78	121.50
-Bottled	100.00	98.84	125.63	114.10	119.90	106.68
-Total	100.00	97.04	113.45	108.11	109.18	114.54
Liquor and wine	100.00	153.80	257.53	283.45	355.71	413.92
Dining rooms, etc.	100.00	97.45	127.20	137.94	147.05	171.62
Rooms	100.00	102.87	117.41	118.51	132.36	111.96
Total sales	100.00	100.20	120.16	119.09	125.87	130.12
Gross profit	100.00	101.60	128.48	130.88	141.08	145.11
Expenses						
Wages	100.00	100.94	127.17	135.79	152.50	160.92
Total	100.00	106.95	129.32	138.83	151.08	163.83
Operating profit	100.00	79.63	125.04	100.32	99.94	68.12

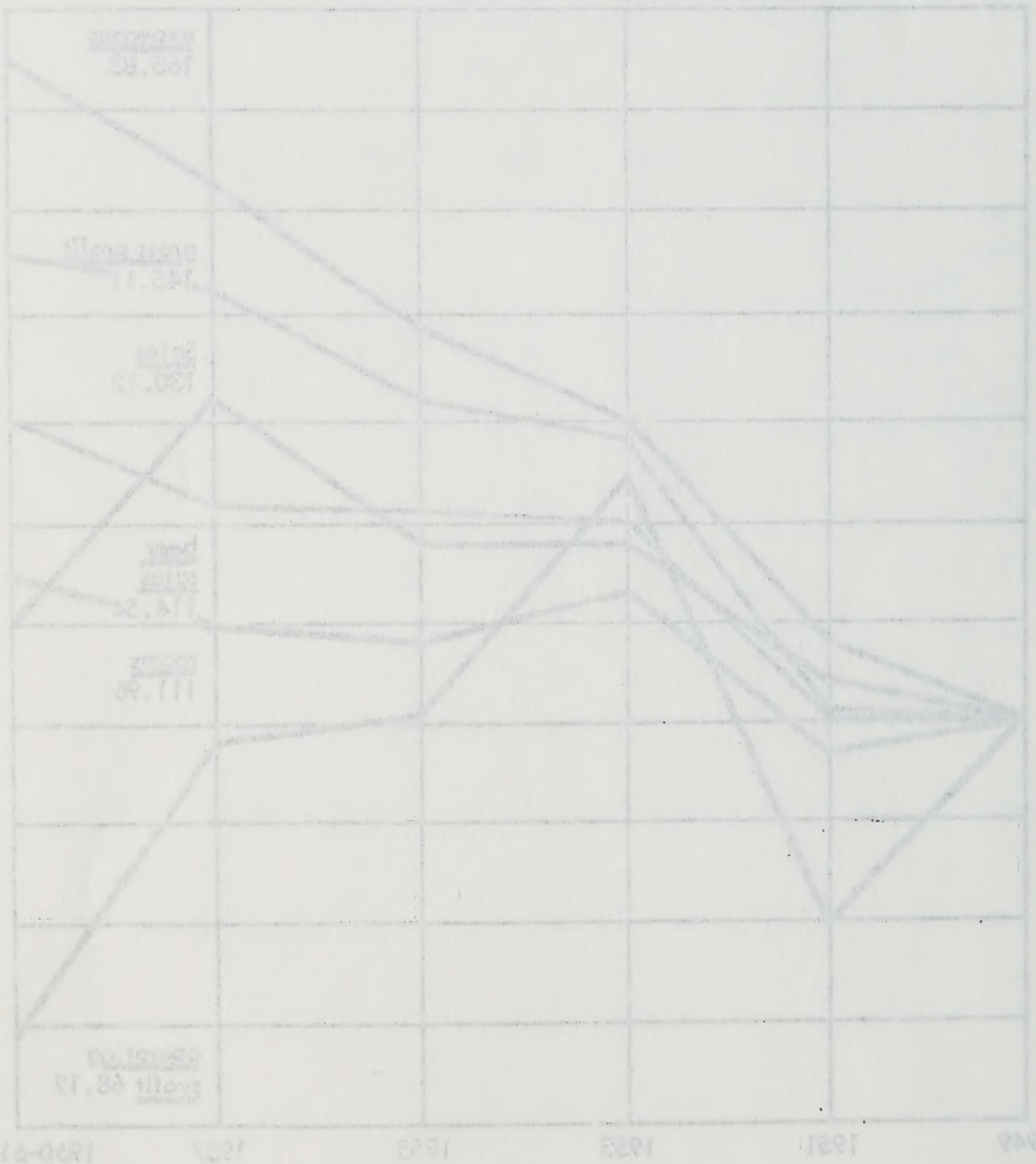
Compiled by:
Winspear, Higgins, Stevenson and Doane,
Chartered Accountants.

ONTARIO HOTEL ASSOCIATION

Indices of operating profit, expenses, sales, beer sales, and room revenue, for years 1949 to 1960–61 based on 1949=100

Chart No. 1





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